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EXAMINER

SENSENIG, SHAUN D

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/772,081
Filing Date: February 03, 2004
Appellant(s): BOHLE, HOLGER

Robert E. Converse, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 11, 2010 appealing from the Office action mailed July 22, 2009.

(1) Real Party OF Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Schloss et al. (Patent Number 5,692,125)

The Columbia Institute e-Campus School Policy Manual November 2002

Papadopoulos (Patent Number 6,099,320)

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Alcorn et al. (Patent No. US 6,988,138 B1)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-6 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schloss et al. (Patent Number 5,692,125) (hereafter referred to as Schloss).**

4. In regards to **Claims 1 and 9**, Schloss discloses:

A method and computer program product comprising a memory device storing instructions that, when executed by a processor, cause the processor to perform a method for managing a curriculum, the method comprising the steps performed by the processor of:

(a) scheduling a booking of a course to be taken by a learner, (Abstract, lines 1-2, *shows a scheduling system*)

(b) receiving input from the learner requesting a modification to the booking; (Abstract, lines 12-13, *shows modification of scheduled event*)

(c) determining whether the booking represents an individual booking or a curriculum booking; (Column 11, lines 9-12, *checks to see if the first event has any subsequent connected events: no would show an individual booking and yes would show a curriculum booking*) and

(d) processing the modification to the booking based on at least whether the booking represents an individual booking or a curriculum booking. (Column 11, lines 9-12, *checks to see if there are any subsequent connected events and processes accordingly*)

Schloss does not explicitly disclose wherein a link is created to associate the user with the event and event information, however, it would have been obvious to one of ordinary skill in the art, at the time of the invention to have included creating a link to associate the user with the event and event information in order to increase efficiency and usability by ensuring that any information regarding an established user/event relationship is maintained for further use (See KSR [127 S Ct. at 1739] "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

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Schloss does not explicitly disclose using the link to determine whether the booking represents an individual booking or a curriculum booking, however, it would have been obvious to one of ordinary skill in the art, at the time of the invention to have included using the link to determine whether the booking represents an individual booking or a curriculum booking in order to increase efficiency by using already established information to ensure that unnecessary or repetitive activity is minimized (See KSR [127 S Ct. at 1739] "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

5. In regards to **Claims 2 and 10**, Schloss discloses:

A method and computer program product comprising a memory device storing instructions that, when executed by a processor, cause the processor to perform a method for managing a curriculum, the method comprising the steps performed by the processor, wherein:

(a) the modification comprises re-booking the course; (Column 8, lines 40-41)
and

(b) processing the modification comprises not re-booking the course, when the booking represents a curriculum booking. (Claim 2 and Claim 8, *shows that if condition is NOT met (such as NOT a curriculum course), the modification IS performed (such as DO rebook the course)*)

6. In regards to **Claims 3 and 11**, Schloss discloses:

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A method and computer program product comprising a memory device storing instructions that, when executed by a processor, cause the processor to perform a method for managing a curriculum, the method comprising the steps performed by the processor, wherein:

(a) the modification comprises re-booking the course; (Column 8, lines 40-41)
and

(b) processing the modification comprises, when the booked course represents an individual booking: (Column 11, lines 9-12 **and Claim 2 and Claim 8, *shows that if condition is NOT met (such as NOT a curriculum course), the modification IS performed (such as DO rebook the course)***)

(i) performing a consistency check with respect to other courses in the curriculum; (Claim 8) and

(ii) re-booking the course based on an outcome of the consistency check.
(Claim 8)

7. In regards to **Claims 4 and 12**, Schloss discloses:

A method and computer program product comprising a memory device storing instructions that, when executed by a processor, cause the processor to perform a method for managing a curriculum, the method comprising the steps performed by the processor, wherein:

(a) the modification comprises canceling the course; (Column 8, lines 40-41) and
(b) processing the modification comprises not canceling the course when the booking represents a curriculum booking. (Claim 2 and Claim 8, *shows that if condition*

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is NOT met (such as NOT a curriculum course), the modification IS performed (such as DO cancel the course))

8. In regards to **Claims 5 and 13**, Schloss discloses:

A method and computer program product comprising a memory device storing instructions that, when executed by a processor, cause the processor to perform a method for managing a curriculum, the method comprising the steps performed by the processor, wherein:

(a) the modification comprises canceling the course; (Column 8, lines 40-43) and

(b) processing the modification comprises, when the booking represents a curriculum booking: (Column 8, lines 40-43)

(i) canceling the course; (Column 8, lines 40-43)

(ii) identifying one or more additional courses within the curriculum for which bookings are invalidated by canceling the course; (Column 8, lines 40-43)

and

(iii) canceling each of the identified additional courses. (Column 8, lines 40-43)

9. In regards to **Claims 6 and 14**, Schloss discloses:

A method and computer program product comprising a memory device storing instructions that, when executed by a processor, cause the processor to perform a method for managing a curriculum, the method comprising the steps performed by the processor, wherein:

(a) the modification comprises canceling the course; (Column 8, lines 40-43 and Column 14, lines 57-61)

(b) the course belongs to a sequence of courses within the curriculum; (Column 8, lines 40-43 and Column 14, lines 57-61) and

(c) processing the modification comprises, when the booking represents a curriculum booking: (Column 8, lines 40-43 and Column 14, lines 57-61)

(i) canceling the course; (Column 8, lines 40-43)

(ii) identifying one or more additional courses within the curriculum that are later in the sequence of courses than the cancelled course (**Column 8, lines 40-43**)

(iii) canceling each of the identified additional courses that are later in the sequence than the cancelled course. (Column 8, lines 40-43)

10. **Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schloss in view of The Columbia Institute e-Campus School Policy Manual November 2002 (hereafter referred to as Columbia).**

11. In regards to **Claims 7 and 15**, Schloss does not explicitly disclose following-up on a booking after an entire curriculum has been completed, however, Columbia teaches:

A method and computer program product comprising a memory device storing instructions that, when executed by a processor, cause the processor to perform a method for managing a curriculum, the method comprising the steps performed by the processor, wherein

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(a) the modification comprises follow-up; (Page 2, line 1-2) and

(b) processing the modification comprises, when the booking represents a curriculum booking: not performing the follow-up to the course until the curriculum has been completed. (Page 2, line 1-2)

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Schloss so as to have included the following-up on a booking after an entire curriculum has been completed taught by Columbia in order to ensure usability by keeping accurate records of course completions (See KSR [127 S Ct. at 1739] "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Examiner notes that according to the specification (page 1, line 26) a curriculum may consist of only one course.

12. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schloss in view of Papadopoulos (Patent Number 6,099,320).

13. In regards to **Claims 8 and 16**, Schloss does not explicitly disclose following-up on a booking before a curriculum has been completed, however, Papadopoulos teaches:

A computer program product, tangibly embodied in an information carrier, for use with a curriculum management system that manages a curriculum comprised of at least

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a course, the computer program product being operable to cause data processing apparatus to perform operations, wherein

(a) the modification comprises a follow-up to the course; (**Column 8, lines 51-56**) and

(b) processing the modification comprises, when the booking represents a curriculum booking: performing the follow-up to the course even if the curriculum has not been completed. (**Column 8, lines 51-56**)

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Schloss so as to have included the following-up on a booking before a curriculum has been completed taught by Papadopoulos in order to ensure compliance to curriculum rules ensuring that all requirements are met prior to giving credit for curriculum completion (See KSR [127 S Ct. at 1739] "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results."), since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

(10) Response to Argument

Appellant's invention is drawn to the scheduling of "courses". A "learner" schedules a course and requests a modification. When a modification is requested, it is determined whether or not the course to be modified is an "individual course" or a "curriculum course" and proceeds based on this distinction.

The prior art reference of Schloss, used to reject the independent claims, is drawn to the scheduling and modification of “events”. These modifications are performed in reference to whether or not there are other events related to the event being modified.

1. The Rejection of Claims 1-6 and 9-14 under 35 U.S.C. § 103(a)...

Appellant argues that the Schloss reference does not teach a “**modification...based on whether the booking represents an individual booking or a curriculum booking**”.

Schloss discloses in the **Abstract, lines 12-16 and Column 11, lines 9-12**, the modification of an event based on whether or not it is a part of a curriculum. “**Events can be modified...**” shows the ability to modify events. “*For each first event...subsequent linked events...will be scheduled*” **shows related (i.e. curriculum) courses** such as the first event being a prerequisite for subsequent events. “*...if there is a next event...the date for that next subsequent event...will be set...*” shows that **if an event is part of a series of events (i.e. curriculum), that events schedule will be modified according to the requirements of that series** (i.e. the modification of the scheduling of the event preceding the said event will affect the modification of the scheduling of the said event). If the event **is not part of a series, it will simply be modified as needed**. Schloss discloses in the above examples that the modification is processed based on whether or not it is part of a series (**either modified as a series with the other related events or modified alone**)

Appellant argues that Schloss **does not perform the “checking steps” during a modification, but rather during scheduling.**

Schloss discloses determining whether the event is part of a series during a modification in the **Abstract, lines 13-16**. *“Further, a **modification of a event(s) can cause modifications to one or more subsequent events in the event group (propagation.)**”* This clearly shows that the **determining whether the event is part of a series is performed during a modification**. Additionally, Examiner points out that Appellant's **claims do not explicitly or implicitly require a modification or related elements to occur at a time other than scheduling.**

Appellant also argues that the Schloss reference uses **“dynamic conditions” rather than characteristics of the event(s)**. Appellant references Schloss, Column 2, line 38.

A person of skill in the art would recognize a **“dynamic condition” related to an event as being a “characteristic” of that event**. In Column 2, lines 28-37, Schloss **associates the dynamic conditions to the events** *“...certain dynamic conditions...associated with events...”* showing that the “dynamic conditions” are characteristics of specific events and their related group of events. Additionally, Appellant does not provide any limitations in the claims relating to “characteristics” of events other than *whether or not it is a curriculum event*, which as shown above is disclosed by Schloss.

Appellant argues that Examiner did not properly take official notice on the elements of Claim 1 which refer to the “link”. However, **Appellant has not properly**

traversed the official notice. Appellant has made assertion as to the invalidity of the official notice, but ***not provided any arguments or evidence showing why the rejected elements would not be "old and well-known to someone of skill in the art"***. "To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would **include stating why the noticed fact is not considered to be common knowledge or well-known in the art.**" (MPEP 2144.03 [R-6], C).

Although the Official Notice was not properly traversed, Examiner will provide the following evidence for clarity purposes:

Alcorn et al. (Patent No. US 6,988,138 B1) (hereafter referred to as Alcorn)
In column 4, lines 54-59, Alcorn discloses "*The user is then provided with access to all courses with which the user is associated... comprising a plurality of course hyperlinks, each of the course hyperlinks associated with each course that the user has been enrolled...*" This shows that **users are associated through "links" to the events to which the have been enrolled**. Alcorn additionally discloses, in Column 4, lines 65-66 and Column 5, lines 3-5, "*The content hyperlinks and/or buttons include...a course information hyperlink...Selection of the course information hyperlink provides...information regarding the associated course.*" This shows that **the link to the associated course includes information on the course**. One of ordinary skill in the art would recognize that this information could and would likely include the type of information disclosed by the Schloss reference that is used to determine if the course is a curriculum or individual course.

Independent Claim 9 recites similar elements to Claim 1 and is therefore covered by the same rejections and arguments as Claim 1 above. No arguments were provided for claims 2-6 and 10-14.

2. The Rejection of Claims 7 and 15 under 35 U.S.C. § 103(a)...

Appellant argues that the Columbia reference does not disclose "scheduling a booking of a course to be taken by a learner, wherein the scheduling comprises generating an attendance link that associates the learner with the course, the attendance link identifying whether the course is associated with a corresponding curriculum", "determining whether the booking represents an individual booking or a curriculum booking based on the generated attendance link", or "processing the modification to the booking based on at least whether the booking represents an individual booking or a curriculum booking" and that Examiner has not made a prima facie case as to why Claims 7 and 15 would have been obvious to someone of skill in the art.

The argued elements are **elements of Claim 1** (discussed above), for which the **Columbia reference was not used as a rejection**. The elements for which the Columbia reference was used as a rejection have not been argued by Appellant.

"Prior art is not limited to the references being applied, but includes the understanding of one of ordinary skill in the art. The prior art reference (or references when combined) need not teach or suggest all the claim limitations; however, office personnel must explain why the difference(s) would have been obvious to one of

ordinary skill in the art." (Page 57528 of **Federal Register** / Vol. 72, No. 195 / Wednesday, October 10, 2007 / Notices).

Examiner has stated reasons why Claims 7 and 15 would have been obvious to someone of skill in the art as seen in the rejections above.

3. The Rejection of Claims 8 and 16 under 35 U.S.C. § 103(a)...

Appellant argues that the Papadopoulos reference does not disclose "scheduling a booking of a course to be taken by a learner, wherein the scheduling comprises generating an attendance link that associates the learner with the course, the attendance link identifying whether the course is associated with a corresponding curriculum", "determining whether the booking represents an individual booking or a curriculum booking based on the generated attendance link", or "processing the modification to the booking based on at least whether the booking represents an individual booking or a curriculum booking" and that Examiner has not made a prima facie case as to why Claims 8 and 16 would have been obvious to someone of skill in the art.

The argued elements are **elements of Claim 1** (discussed above), for which the **Columbia reference was not used as a rejection**. The elements for which the Columbia reference was used as a rejection have not been argued by Appellant.

"Prior art is not limited to the references being applied, but includes the understanding of one of ordinary skill in the art. The prior art reference (or references when combined) need not teach or suggest all the claim limitations; however, office personnel must explain why the difference(s) would have been obvious to one of

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ordinary skill in the art." (Page 57528 of **Federal Register** / Vol. 72, No. 195 /

Wednesday, October 10, 2007 / Notices).

Examiner has stated reasons why Claims 8 and 16 would have been obvious to someone of skill in the art as seen in the rejections above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/S. S./

Examiner, Art Unit 3629

Conferees:

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